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# Labour-Related Conventions and Configurations of Meaning: France, Germany and Great Britain prior to the Second World War

Robert Salais \*

**Abstract:** »Arbeitsbezogene Konventionen und Sinnkonfigurationen: Frankreich, Deutschland und Großbritannien vor dem Zweiten Weltkrieg«. Using the economics of convention, this contribution aims at develop an approach capable of explaining the long-term national idiosyncrasies and describing them as stable configurations of meaning. One takes the example of labour in three European countries, France, Germany and Great-Britain, by focussing on the Interwar. Three interconnected objectives are pursued: theoretical (defining labour as activity of realisation); methodological (finding a historical narrative based on conventions and not on institutions); illustrative (shedding light on the deep specificities of the meanings of labour among the three countries). A red line runs along the paper, that of offering a coherent variety of arguments in favour of conventions-based history. It is stressed that in economic and social coordination conventions are prior to institutions. Social objects (in particular institutions) have to be analysed as sedimentations and rearrangements of conventions along history. In such a perspective, historical research would aim at bringing to light the buried traces of the configurations of meaning and of the systems of conventions which have durably installed these configurations in daily life and work. And, in periods of crises, it should focus on the processes of change which bring about re-interpretation of the established configurations, their reorganisation – often, at the end, more incremental than it appears at first glance – through the incorporation of new social objects and conventions.

**Keywords:** conventions, institutional change, configuration of meaning, trace, labour history, employment relation, historical process.

«Die Spur ist Erscheinung einer Nähe, so fern das sein mag, was sie hinterliess. Die Aura ist Erscheinung einer Ferne, so nah das sein mag, was sie hervorruft» (Walter Benjamin, *Passagen-Werk* 1983, 560).

The current problems facing the construction of Europe – the diverging paths of Member States and their difficulties to achieve true agreements – have once again brought to fore the idiosyncrasies of the countries comprising the EU.

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These singular traits are rooted in national socio-historical trajectories, which are becoming increasingly evident in a number of areas, particularly labour. Using the economics of convention, the challenge we are addressing here is to develop an approach of labour capable of explaining the long-term national idiosyncrasies and describing them as stable configurations of meaning. We will argue that established systems of conventions are more stable and, in some way, more “efficient” to ensure coordination than institutions. Institutions require the mediation of conventions to be effective. Such properties come from the repeated actualisation of conventions in daily social practice, which forms the material from which people develop their practical knowledge; which means that, ultimately, these are conventions and their evolution, not institutions that propel the socio-historical dynamic. Conventions work, not only as mutual expectations, but also as traces historically incorporated into social objects, and due to the variety of these objects they exercise stabilising forces on collective trajectories. This is not to say that change or innovation is impossible, but its process is hard for institutional constructivism, as promoted by Europe, to understand and cope with<sup>1</sup>.

Part 1 is theoretical: it proposes a definition of labour as process of realisation. In positing the hypothesis that action can be divided into two types of regimes, one pragmatic and the other constitutive-constructivist,<sup>2</sup> we then aim to bring out the dynamic interaction between conventions (the pragmatic regime) and institutions (the constitutive-constructivist regime) and suggest the socio-historical antecedence of conventions over institutions. A convention-based socio-history is thus required, which raises questions about how one can gain empirical access to conventions and present national idiosyncrasies in a comparative framework. To meet these needs, in Part 1, we will introduce three concepts: “reality test” (central to the economics of convention), “configuration of meaning” and “trace”. The last two concepts have been freely developed from the debate within hermeneutics, along with an additional reference to Walter Benjamin.

Part 2 lays the groundwork for the convention-based approach by developing a heuristic schema linking labour to its product, which can be used to organise empirical questioning. Labour activity as a process of realisation is made up of three moments: hiring (Moment 1), productive coordination (Moment 2), and the test of product’s reality – that is testing whether the product, when realised, confirms the various expectations with regards to its quality

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<sup>1</sup> The writing of this text has benefitted from earlier presentations and discussions in the methods seminar at the Centre Marc Bloch (21 June 2010), the IDHE seminar (11 January 2011), and the first IEA-BIT Entretiens – *Le sens du travail* – on 31 March 2011 at the Institut d’Etudes Avancées de Nantes. I would like to express special thanks to Denis Thouard, my colleague at the Centre Marc Bloch in Berlin, for initiating me to hermeneutics. I am responsible for any mistakes or failure to understand.

<sup>2</sup> The use of this double attributive adjective is explained in Part 1.

(Moment 3). These three moments are dynamically linked and interact with each other. In every society, they are the subject of conventions of coordination and evaluation that leave behind traces (in Walter Benjamin's sense of the term) in social artefacts, first and foremost institutions and their rules relating to the field of labour.

Part 3 aims to illustrate in a few pages<sup>3</sup> the rich possibilities of this theoretical and methodological framework that make it especially well suited to historical narrative. It focuses on the conceptions of employment relations in three dominant countries – France, Germany and Great Britain – during the period prior to the Second World War. This period shaped the national foundations on which post-war Europe was to be built. Part 3 shows how each country, faced with the same challenge to grasp labour as a realisation process, gave rise to its own configuration of meaning regarding labour, which helped to give it a specific historical trajectory.

We will conclude with two open questions. The first concerns the construction of Europe (our question at the outset), and the second how the hermeneutic approach can support a convention-based socio-history.

## 1. Labour Activity and the Convention-Based Approach

Our contribution starts from a conception of labour as a social activity essentially aimed at realising a product, a service or any other “object” (in a general sense).<sup>4</sup> In the following section, we will be using the convention-based approach to develop this conception.

### 1.1 Labour, Realisation Process and Product

The theoretical developments undertaken here are based on four guidelines.

First, whenever and wherever labour activity is carried out it creates “objects” that did not exist prior to their realisation. It is thus the ongoing source of a new reality, which means that, in the realisation process, it posits the surrounding world as incomplete. The creation of reality inherent in labour activity – in short its Promethean dimension – expresses the irreducibility of human freedom. Every labour process consists in coordinating individuals, in other words human beings whose ontological status is that of individual free wills. As a result, coordination takes place in a context of overall uncertainty about the future, about what others are doing and will do, and about the ability of existing labour arrangements (their rules and objects) to achieve the targeted results. Labour must therefore be analysed as the “situated” expression of hu-

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<sup>3</sup> Coming from a wider research project currently under way.

<sup>4</sup> Cf. also Salais (1998).

man freedom, and the constraints brought to bear upon it, no matter how strong, must be analysed relative to that freedom.

Second, starting from these two characteristics (the situated expression of freedom and the context of overall uncertainty), the participants in the process are using conventions for coordination to begin and proceed. In labour as in any other activity, conventions allow each person to assume that he or she is engaging in a common world, a world shared with others. This common world is neither closed nor pre-existing; it is a possible world and consequently opens onto the future. Under these conditions, coordination can then move forward based on mutual expectations. Conventions are therefore not only assumptions about the action to be performed but also a frame of reference to evaluate what happens in the course of coordination and to allow it go further.

Third – and this applies to all areas of life – conventions have both cognitive and normative aspects. Conventions tell the participants what is happening in the coordination process. They also remind the participants what is expected of them. They are therefore cognitive and normative *in the practical sense* that they are derived from personal experience acquired individually through social interaction. These cognitive and normative aspects do not stem from applying general categories from outside the participants' experience, which they then interiorise as a categorical imperative. To be sure, by their very nature, institutions carry such general categories within them, and therefore we cannot ignore them when we are dealing with institutions. But when we act, we reinterpret those general categories through the mediation of our “conventional” construction of the world. Interpretation and mediation are at the core of the complexities between conventions and institutions. In reality, they cannot be thought or developed independently of each other. One must nevertheless examine both if one wishes to arrive at a genuine understanding of social processes.

Fourth, for the participants, the success or failure of coordination is verified, practically speaking, upon its completion; that is the moment when *the reality test* evaluates what has taken place. One of the essential peculiarities of labour activity is that the reality test pertains not to the labour itself but to the product of that labour. Because labour is a process of realisation, the ultimate test of its reality lies outside itself. This is true regardless of the society in question or its economic system. But a much broader conception of the test is required than the one developed by the theoreticians and practitioners of the scientific organisation of work who have gradually colonised the sciences of work since the 1970s and 1980s.<sup>5</sup> In the context of the so-called “scientific” work organisation they imposed the idea that the reality test was limited to measuring efficiency or comparing the production process with predetermined quality norms and standards. From a strictly economic standpoint, the apparent autonomy granted

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<sup>5</sup> France offers a particularly significant example of such a reduction in labour economics (Salais 1994). Axel Honneth (1980) analysed the same reduction in the sociology of labour.

to the field of organisation should not obscure the fact that labour is ultimately intended to put a concrete product to users (whatever they are). In a general market economy, the final test of labour takes place in the market for its product; in an economy of exchange between persons, the product user determines the test result; in a planned economy, the quality and quantity standards set for the product by the plan are the basis for the test. In a capitalist economy (which is merely one system among others), the employer expects the test to result in a return on his investment, according to the norms established in competition.

More fundamentally, the finalities and values that products bring into play are much broader. The question of why or for whom one produces involves the basic objectives of society. Is it for the company's profit? To give everyone access to all the basic capacities? To improve the well-being of the community? To foster sustainable development? Clearly, there is no single convention for evaluating labour. All these issues could be the source of conflicts and unstable compromises between different evaluation conventions. The scope of the area to be evaluated, how open or closed it is, how it is structured and how the different moments are related to each other, the breakdown of responsibility among the participants and the conception of all these aspects are essential issues in such conflicts, which are both normative and cognitive. The diversity of national idiosyncrasies and their historical development stem from the plurality of possible solutions.

## 1.2 The Socio-Historical Antecedence of Conventions Over Institutions

From the practical standpoint of persons, the preceding orientations imply that conventions are prior to institutions. One way or another, the latter are an outgrowth of the former, which argues in favour of a socio-history of conventions. This is not to say that conventions have ontological antecedence over institutions. Their antecedence does not result from a dogmatic determination of what must be *a priori*, or from the intervention of a *deus ex machina* such as the laws of history or of evolution. It is socio-historical. We will not attempt here to settle the question as to whether the same socio-historical antecedence holds in all social spheres, though one could be inclined to think it does, inasmuch as labour activity sheds light on what can be considered the general characteristics of any action.

Our arguments differentiate between two regimes of action: a pragmatic regime and a constitutive-constructivist regime. The first involves practical experience, which every person acquires and uses in daily life; the second involves general knowledge and the use of theoretical justifications. Conventions belong to the pragmatic regime, whereas institutions belong to the constitutive-constructivist regime. The pragmatic regime comes first in the sense that it is impossible to engage in social coordination without making use of conventions.

The constructivist regime comes second<sup>6</sup> insofar as its constructions (institutions and their rules) must somehow correspond to conventions in order to become “real”, in other words, to be effectively at work in coordination. For institutions and their rules to have an effect, they must be mediated by conventions and by their evaluation and reference models. At some point, as the outcomes of repeated deliberations and testing, institutions and rules become established as sedimentations of conventions or as compromises between them.

In an ordinary regime, conventions belong to what individuals in action assume – without even thinking about it – to be the basis and fundamental given of the action. Like all conventions, labour conventions are part of the elementary, autonomous repertory of actions and knowledge that ensure us a role in the collective in which we are involved: we act then and there as others expect us to act or, if not, we give signs or justifications to explain why our actions do not conform to those expectations. Pragmatically, conventions are therefore prior to institutions. We do not need to marshal the whole institutional arsenal to buy bread at the bakery. Similarly, to know what we have to do at a given moment in our job, we do not have to consult a whole battery of regulations and laws defining the job and its specific tasks before taking action.

A socio-history through institutions, particularly when it is underpinned by the theory of rational choices or by neo-institutional economics (like the approaches of Williamson or North), will seek out the driving force of the dynamic above all in the rational, constructivist activity of the agents, in their ongoing effort to modify or negotiate the institutional framework in favour of their interests. So doing it neglects the basic role of conventions in ensuring the effectiveness of institutions. This constructivist itch, generally encountered in the political sphere, must of course be taken as material for the history we are attempting to do and as an important factor in that history. Furthermore viewing constructivist activity as the sole driving force of history would also mean neglecting the constitutive dimension of institutions, i.e. their justification based on fundamental principles (see below).

To have an effect on and in society, we believe, instead, that new institutions or adjustments of existing ones must undergo the test of conventions, of their framework of interpretation and action. There are countless historical examples of the capacity of conventional systems to last over the long term, sometimes at the cost of renewed advocacy and justifications; or to resurface more or less unchanged as a resource suitable for everyday coordination after fading out, sometimes for several generations. These conventional systems do not have an immutable essence, but rather long-term stability arising from their continuous actualisation in daily social practice, which forms the material from

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<sup>6</sup> Here second in no way means “secondary”, i.e. less important or of lower status. We could just as easily say that conventions and institutions exist as parts of a reciprocally encompassing whole.

which we develop our practical knowledge. What governs the appearance, development, transformation and decline of conventions is at once the driving force and the fruit of social and historical processes. But these processes have one particular – and essential – feature: they are neither intentional nor rational in the usual sense of the term.<sup>7</sup> In their dynamics conventions and institutions interact, which is why, as we shall argue later on, it is possible to find traces of conventions embedded in the “material” of social artefacts, particularly institutions and their rules and uses.

Let us develop this further. Institutions are situated at a level of social coordination, which in our approach corresponds to the state and to the establishment of constitutive rules that express the legal and ethical principles used as frame of reference for community life. Consequently, the social dynamic involves complex interactions between institutions (which inscribe more general principles of evaluation in the sphere of conventions) and conventions (which are a constant reminder that institutions can acquire legitimacy and effectiveness only by meeting people’s convention-based expectations). Finally, with regard to labour, we cannot ignore the paradigm of organisation or the complex, conflicting relationship that arises between coordination through conventions and organisation. Indeed, organisation develops rules that are no longer constitutive but merely regulative. Regulative rules are means that are rationally optimised to achieve pre-established ends. In organisation, the realisation involved in labour is no longer an expression of human freedom transcending instrumental aims; it is reduced to the rational imposition of a quantitative performance. Thus, if we want to take the implications of the convention-based approach to labour to their logical conclusion, today we are forced to manoeuvre theoretically within a system of political influences and blurring between convention, institution and organisation (Salais 2009). The current crisis has revealed an invasion of the area of institutions by a logic of organisation and instrumental rationality; regulative rules have been raised to the level of constitutive rules, usurping and degrading their status. That is why we have to qualify institutions as a mixed regime – both constitutive and constructivist – in which the weight of each side may vary.

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<sup>7</sup> It is also very difficult to apply a genetic conception to conventions. Inasmuch as every person can find (and adapt if necessary) a convention that allows him or her to enter into coordination, convention-based history is like a process with no beginning or end. This conception can be derived from the research of David Lewis (1969); see also Salais (1993).



### 1.3 Towards a Convention-Based Socio-History of Labour: Why and How

We must therefore undertake a socio-history of labour through conventions.

As researchers, whatever our approach, we are facing a series of challenges. First, people or actors never conform their behaviour to the general categories or models developed by academic research: they are simply elsewhere. Any systematic theorisation, when applied, will meet situations, people, periods in which it is in serious default. Second, people or actors never cut into separate pieces or segments (the economic, the social, the political, etc.) their activities as academicians do. Thirdly, as conventions are inseparable from the actions that actualise them *in situ*, it seems they cannot be observed. Fourthly, as makers of economic, political and social theories, our constructions contribute, at least for some and sometimes, to “perform” the economy and the society: they could become ingredients for conventions used by actors.

How could the economics of convention try to cope with such challenges? By taking seriously as its core concern this intimate link made by and in conventions between practical knowledge of actors, their interpretation, their action and their evaluation of situations.

We will first make a short detour (which we hope will not be simplistic) to point out remote roots of the approach in the Hegelian concept of objective mind, which subsequently developed around labour and in hermeneutics, and introduce the concept of configuration of meaning. We will then introduce the concept of traces and consider social objects (especially institutions) as “questionings”.

#### *1.3.1 Hermeneutics and Labour: Facing the Object*

Labour stands opposite its product: what is their reciprocal relationship? This is our starting point. And this is how Hegel reinterpreted the concept of labour he found in English political economy (Lukacs 1948), which actually conceived of it quite differently, as we shall see in Part 3. On the other hand, we shall also see in Part 3 that, in the long run, Hegel influenced the way the concept of labour was understood in Germany. But this problem – the objective character of the object, which requires going beyond the idea of an immediate inter-subjective understanding of meaning – is also that of hermeneutics. The interpreter, the user, the subject of an institution, the actor are faced with an object that has acquired a consistency of its own as well as autonomy in relation to the original situation (Thouard 2008). This also holds true for the product of labour. The product emanates from labour as an extension of human activity and intentions (conceived by Hegel as the realisation-exteriorisation of the objective mind) but, as soon as realised, escapes to them.

The relation between labour and its product has long been the subject of historical debate. Honneth, in a 1980 text, recalls that in the philosophy of labour, the term “labour” designated not only the social practice by which the world is built but also the level at which potential knowledge emerged capable of making a process of expanding social freedom possible. Marx specifically sought to understand labour not only in terms of economic growth, but also and above all from the standpoint of the practical and normative finalities of emancipatory development.<sup>8</sup> From this point of view, the stakes of the interpretation of labour as activity have links to those of hermeneutics (an approach that inspired authors like Lukacs and Benjamin). Hegel conceived of labour as a constitutive moment in self-consciousness. He (and Marx in his early works) thought that the product of labour had, to use Honneth’s term, a “retroactive” signification for the working subject, because labour activity could be characterised as a process of concretising one’s cognitive capacities. Labour accompanied by awareness and reflexivity could become the medium for potential development and emancipation.

In Honneth’s view, Marx’s failure in his later works was to settle for an instrumental conception of labour, according to which capitalism of itself did “all the work” of transforming labour into a process of emancipation: by developing productive forces, imposing the apprenticeship of discipline and productivity at work and centralising workers into organised masses within large firms. This view reduced the conception of labour to instrumental performance and simultaneously and subsequently dismantled the emancipatory theoretical status of labour. Hannah Arendt (for whom “true action is free from all contact with things”<sup>9</sup>) and Jürgen Habermas<sup>10</sup> (who limited labour to its instrumental role) contributed significantly to this disenchantment. As Honneth notes, Habermas did not realise that he had within his reach a model of interpretation of labour as coordination and inter-subjective comprehension in the workplace. This would have allowed him to see the practical rationality and the efforts of appropriation that workers developed in situ in their work, which has been revealed by numerous studies.<sup>11</sup> Labour activity, past and present, cannot be reduced to applying the rules of an organisation, however perfect. It is the source of knowledge about work. It is still an open question whether, given the conditions of the transformations of work today, this knowledge can be enlarged into an operative social critique and participate in defining an emancipatory process, and if so, which one.

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<sup>8</sup> In his 1844 Economic and Philosophical Manuscripts.

<sup>9</sup> Honneth (1980, 38).

<sup>10</sup> Arendt (1960); Habermas (1979).

<sup>11</sup> Philippe Bernoux (1979) and Robert Linhart (1978), cited by Axel Honneth, but also, much more recently and with other theoretical backgrounds Nicolas Dodier (1995), Alain Supiot (1995), Isabelle Ferreras (2007) and Bénédicte Zimmermann (2011), to mention only a few.

The basic assumption of hermeneutics is that every social object<sup>12</sup>, among the many “expressions of life” (Dilthey 1910) in the vast collection of gestures, spoken words, tools, works of art and institutions, is the product of an activity and that activity has left traces. These traces of other times and places do not simply yield themselves to actors here and now. A trace is not simply a deposit in an external reality of the ends, values and significations of those who produced the object in an earlier time and place. It is, to interpret the concept used by Heinrich Rickert and also by Hans Freyer (1922), a configuration of meaning<sup>13</sup> incorporated in the object. As Georg Simmel emphasises in *The Philosophy of Money*<sup>14</sup>, the configuration of meaning that actors call upon in the process of coordination has already accumulated over the course of time sedimented layers of interpretation, appropriation and transformation that have made it opaque to the very persons who rely on it. Even more, this configuration of meaning is inscribed and distributed (we would say today) in “social forms, institutions, customs, habits, aesthetic, gestural and linguistic codes”<sup>15</sup> (in other words, conventions that form a system), which produce significations “behind the backs” of the actors. It has become a heritage, as it were, which can still be actively appropriated, but only partially. Moreover, we might add, the contemporary development of purely instrumental rationality has helped to turn the social sphere into a playing field for strategy games among actors. Configurations of meaning – if not the intentions, at least the underlying orientations<sup>16</sup> that objects have acquired in the course of their historical trajectories – have been covered up by overdetermination in terms of competing interests, which have replaced the former as the driving forces of action.

From the “genesis” – if there is one – of a configuration of meaning over time these accumulations and sedimentations concentrate into a sort of repertory from which each actor, here and now, can draw the practical and strategic meaning of the events under way, the situation and the actions of others. Such stabilised repertory allows actors to reach agreement, debate, oppose each other, sometimes even violently, based on a common yet unquestioned background. The stability of the system is due in large part to the fact that all can easily check to see that it works, that the others act as anticipated or simply give the expected signals. To what extent does such system leave room for interpretation and innovation? Only a historical approach that is always “retrospective” can answer that question. For it is in the nature of a shift in trajectory,

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<sup>12</sup> Later on we will speak of social artefacts to underscore the fact that they are social products.

<sup>13</sup> We are borrowing the concept of “configuration of meaning” from the French translation of Rickert, *Les problèmes de la philosophie de l'histoire*, pages 105-117.

<sup>14</sup> Simmel (1907); cf. also his reflections on history in Simmel (1918).

<sup>15</sup> Thouard (2008, 13).

<sup>16</sup> Or “intentionability”, a neologism suggested by Denis Thouard.

a change of course or an innovation to be recognised as such by actors only well after the fact through a collective effort to reconstruct its meaning.

Philosophy of labour as well as the area of hermeneutics focused on inter-subjective relationships hoped to cut through the opacity of the social reality and recover the initial transparency of its origin. The former expected that the return to full knowledge would bring with it social emancipation, conscious of itself and capable of finding its way and not deviating from it; the latter hoped it would yield a historical approach capable of breaking through the barrier of time and bringing the past and the present together in full inter-comprehension.

### *1.3.2 In Search of Configurations of Meaning: Traces and Questionings*

What the economics of convention can undertake is more modest and, one guesses, more realistic. Following the example of Simmel, it can make the opacity more decipherable and practicable. The task should be first to become aware of the configurations of meaning that have laden social objects with semantic determinations, knowledge, experiences and practices, and second, to be able to grasp the plurality of interpretations of social reality and the plurality of possible worlds this reality harbours. In such a perspective, historical research would aim at bringing to light the buried traces of the configurations of meaning and of the systems of conventions which have durably installed these configurations in daily life and work. And, in periods of crises, it should focus, by difference, on the processes which bring about re-interpretation of the established configurations, their reorganisation – often, at the end, more incremental than it appears at first glance – through the incorporation of new social objects and conventions.

Yet, paradoxically, conventions are inseparable from the actions that actualise them *in situ*, and therefore cannot be observed, except in special circumstances.

Under these conditions, researchers have to be wily. There are basically three methods available to them: they can conduct participatory inquiry; they can observe crisis situations that force the actors to produce justifications for their actions; or, borrowing from detective stories and, in a more serious vein, from Walter Benjamin and hermeneutics, they can look for converging clues, the “traces” that conventions leave behind in the collective artefacts developed through their use.

In *The Arcades Project* (1999), Walter Benjamin gives us the following definition: “The trace is the appearance of nearness, however far removed the thing *that left it behind* may be”. He contrasts it with the aura: “The aura is the appearance of a distance, however close *the thing that calls it forth*”. When transposed to a conception of social artefacts as systems of sedimented conventions, Benjamin’s concepts suggest a dialectic between conventions and institutions analogous to that between the near and the distant. This co-presence of the near and the distant in the object, emphasised by Benjamin, is certainly one

of the main factors ensuring the stability of configurations of meaning over time.

Provided we know what we are looking for and how to look for it, the landscape around us –Walter Benjamin’s Paris arcades, for example – yields traces of conventions and more broadly of the configurations of meaning conventions have embedded in it. When we look at our surroundings, if the traces converge with each successive gaze, then we have grasped something in the nature of a proof.

The list of social artefacts in the landscape of labour is *a priori* a long one. It comprises theoretical writings on economics and society; statistics; labour law and more generally if possible, economic law; systems of collective bargaining; institutions related to social issues; the organisation of work, production and the market; quality standards governing labour and products, or even technical objects (the material form of these objects incorporates expectations about their efficient use, in other words implicitly exhibits a cognitive model of “good” work), or ordinary world-views as expressed in actors’ material.

In short, these artefacts “observe” labour in order to evaluate it and act upon it. They are constructed as ways of problematising, or better yet, of “questioning” labour. As questionings with an operative aim, these social objects define, describe, classify and rank. They operate through the use of justifying theories, inquiries, survey procedures, data creation and measuring methods, all of which are conventional instruments that intend to grasp and to evaluate labour practices and therefore the conventions at work in labour coordination. In other words, the traces those conventional instruments have left in social objects are those of questionings. In a socio-history of labour through conventions, these are those questionings that must be questioned. One can discover there the material from which configurations of meaning come and take generality.

For example, let us take the institution of labour law. In this case, the role of the law is not to coordinate in place of individuals (as most forms of institutionalism maintain). Rather, they serve to guarantee that, in the event of a problem or hazard due to conflicting interpretations of conventions or the use of different kinds of conventions by the participants, the problem or the consequences of the hazard will be handled fairly. This implies that the participants have rights, identities, access to resources and forms of recognition by institutions, all of which are materials that the researcher can examine for traces of the conventions that gave rise to them. This in turn implies that the rules of law have been built up by questioning the situation of coordination. This questioning constructs the legitimate characteristics of the situation, those that justify action taken by the community in the name of its fundamental objectives and values (we are thinking, for example, of the category of “unemployment”, the definition of the labour contract, the model of the employment relation embedded in a collective agreement).

To uncover configurations of meaning, we must build a historical narrative based on a framework that allows us to understand the questionings incorporated in social objects. The narrative must be capable of revealing the traces sought in materials that may, at first glance, seem remote from each other. In making comparisons between countries and/or historical periods, it must employ the same framework. But unlike the usual approaches to international comparison, it must not only bring to the fore similarities and differences, but also and fundamentally the outstanding singularities of each one and how they came about. It requires to construct a heuristic (rather than a model in the strict sense) open to the diversity of conventions that “encode” and qualify the various dimensions of the employment relation. The researcher should make effort not to use an a priori general theorisation, but to become aware of the ways people or actors practise.

## 2. The Pattern for the Historical Narrative: Labour Conventions and Realised Product

The pattern we will be using links labour conventions to the realised product. A product differs from the “commodities” of classical economics and from the “goods” of standard economics in that its essential characteristic – which is precisely that it is produced – is the very foundation of the concept. The product cannot be separated from the productive coordination that ensures its realisation or from the labour performed to make it and its conventions. Reciprocally, the labour conventions that are used cannot be separated from the concrete product they aim to realise.<sup>17</sup>

### 2.1 The Pattern and Its Heuristic

Figure 1 lists all the dimensions that make up the employment relation; it presents them in their order of appearance in the course of labour activity, and its engagement in the reality test on the product; it elucidates the chain of expectations going back and forth through the process from product testing to the start of work.

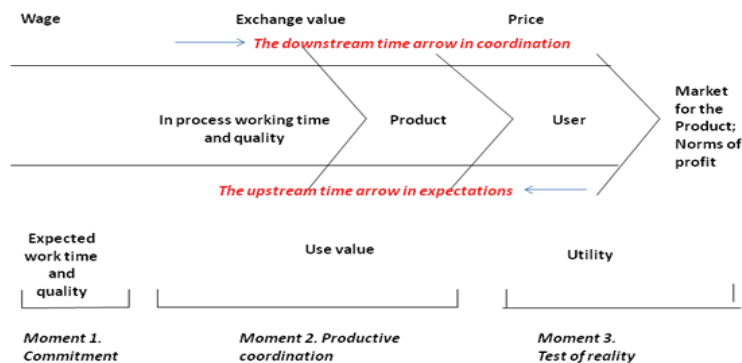
The pattern distinguishes three moments of the employment and shows how they are connected. Moment 1 refers to the establishment of an employment relation, when a wage is proposed in exchange for future labour activity (in other words, the moment of hiring). In Moment 2, the product is being made; it takes time and proceeds according to a certain arrangement of tools, rules and

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<sup>17</sup> Part 2 is based on the article on labour conventions published in the March 1989 issue of *Revue économique* (Salais 1989), which laid the groundwork for the economics of convention, and on a book written jointly with Michael Storper, *Les mondes de production* (Salais and Storper 1993; English version: Storper and Salais 1997).

persons. This is the moment when a use value and an exchange value are simultaneously created and results in the payment of wages. Moment 3 involves testing the reality of the engagements that were made; it is the moment when the expected values are (or are not) realised. This moment takes place in the product market, where the price and utility of the product are (or are not) validated to a certain degree by the demand for it.

Figure 1: The Interrelation Between Labour and its Product



In the case of labour, economic theory usually stops at Moment 1 (establishing the relation); it may sometimes include Moment 2 (productive coordination, work organisation), but it seldom refers to Moment 3 (the test of the product in its market), and above all never focuses on the interdependence among these moments. Yet the interdependence of the three Moments is fundamental to any understanding of labour activity. On the one hand, these moments are sequential; each one depends on the preceding ones. If the organisation of work is faulty (or if the hired workers do not have the necessary skills), the product that is realised will not meet expected quality standards or output level and therefore will not find buyers. On the other hand, as we tend to forget, the flow of time has two arrows, one moving downstream, and the other upstream. As labour activity proceeds (downstream time), it is constantly taking into account the degree to which its final aim has been realised; the course of the action is continually adjusted according to anticipations of what remains to be done (upstream time). The adjustment between realisation and anticipations takes place at every point and every moment as the work is accomplished, which explains the omnipresence of conventions that make it possible to evaluate how close the process is to completion and adjust to any gaps that appear.

That figure makes perceptible the tensions and contradictions that arise between the actors in the employment relation, particularly those between the rules of the organisation (which are means used by the employer to achieve

predetermined ends) and the labour conventions (which express ends that potentially transcend the mere instrumental aim). As it is, in restricting the test of the product to its market, figure 1 eliminates more general tests pertaining to the choice of products, the debate over their social purpose, the direction of society's development and macroeconomic intervention by the state. However, this schema roughly applies to the interwar period, but should be broadened for the period after the Second World War.

There are good reasons for postulating a certain similarity in the conceptualisations of actors in the same country, above and beyond their particular field, if only because they observe and live in the same society and they have to take the constructs of others into account in their social interaction, which also leads to the emergence of a configuration of meaning. On the other hand, as we shall see, there is no reason why these conceptualisations should be the same in every country or every period. They become socio-historically dependent on specific national trajectories.

#### Encart: Labour as Activity and Market Theory

Let us examine the schema more closely to explain why labour as activity cannot be subsumed under a market theory (whether the market operates perfectly or not). Once the employment relation is established between the employer and the employee, it cannot be reduced to a spot exchange, nor can it ensure optimum adjustment to individual preferences. The reality of the commitments made on both sides (wages and working conditions on the one hand, effort and quality of labour on the other) remains uncertain. They have yet to be fulfilled in the course of the relation. The employment relation thus opens onto reciprocal testing, which can only be settled when the product has been realised and sold in the market. Labour activity and its concrete product are mutually dependent. Labour activity is thus thoroughly conventional in the sense that, in a context of uncertainty – about the future, about what the others are doing, about the ability of the existing labour arrangement to achieve the desired results – coordination can only proceed on the basis of mutual expectations, by assuming a common world.

If there is a market in this process, it is the product market and not that of a factor called “labour”. But, you might rejoin, what about wages, aren't they determined in a market – in the labour market as a matter of fact – where job seekers compete for job offers? In practice, wages are set in Moment 1 in relation to the references used in a negotiation taking place at a particular time and place. These references include the wage schedule already practiced by the firm, wage scales for similar labour in the industry or locality, the collective agreement for workers in the industry, a company agreement, etc. The “labour market” is made up solely of a set of local matchings between, moreover, the promises exchanged by the parties with respect to the future of their relation. The real issue in Moment 1 is to determine which references will be used in the matching and their possible connections to the subsequent moments, which emphasises collective bargaining between employers and trade unions more than the market.



### 3. Three Specific Configurations of Meaning for the Employment Relationship

In Part 3, we will be using the method of converging traces presented in Part 1. We have not tried to determine whether there is a hierarchy among the traces depending on the places and the social objects in which we are looking for them. Instead, we have examined economic theory, legal doctrine, jurisprudence and collective bargaining, along with what can be known about the “ordinary” understanding of the economic and social actors – employers, craftsmen and trade unions – with regard to labour and how it was practised. For the most part, our approach involves reading existing research in the light of the pattern developed in Part 2 and Schema 1. It does not cover the entire field of conceivable investigation, but rather focuses on areas that can be reasonably considered important. We have then freely presented the narrative, country by country. The thread of that narrative differs from one country to the next, even though the same areas are discussed. We might say the narrative unfolded of itself, simply by following the different turns, focal points, hierarchies, neglected aspects and biases specific to each country.

Despite its limits, the exercise ends up consolidating to a large extent the hypothesis of a national configuration of meaning with respect to labour for the three countries (Germany, France and Great Britain) and the period under consideration (roughly the interwar years). From the same basic elements, these configurations created their own specific arrangements across the places and objects studied. As we observe in research currently under way (which we have not discussed here), these configurations of meaning were superimposed on the variety of labour conventions at work in the socioeconomic fabric of each country through a process of selection and orientation. During the interwar period, for example, they channelled and narrowly specified the paths and methods for rationalising labour in each country.

Figure 1 proves fruitful in the distinction it proposes between the three moments of the employment relation and its emphasis on their interconnection. We will begin with Great Britain and Germany, which were, in opposite ways, the farthest removed from the liberal contract model, whereas France was, on the contrary, closest to it. This assertion may seem surprising, as Great Britain has come to be commonly – though wrongly – viewed as the paradigm of the liberal model. In reality, the codification of the employment relation in Great Britain was not an outgrowth of freedom of contract, but rather of the relation of dependence of servants on their masters (the service contract). In Germany, it emerged not from freedom of contract but from freedom of association. To describe these differences adequately, we shall see that in Great Britain the process took place over a long, stationary period (beginning in the middle of the nineteenth century or even earlier), whereas in Germany it developed in a

short, even very short, chaotic period (from 1919 and the creation of the Weimar Republic), and in France at a slow rhythm marked by sudden accelerations.

### 3.1 Great Britain and the Servant's Dependence on the Master

The conventions that laid the groundwork for the employment relation in Great Britain were the highly improbable result of the intersection between diverse and even contradictory factors over the long term. The only thing these factors had in common was their focus on the product, but on the product made and brought to market (rather than the product yet to be made as in Germany).

In the British configuration of meaning, the employer was positioned above all as the recipient and seller of the product. He was limited to being the intermediary of the market. He passed along the market's wishes to the workshops and production, which he had only a marginal interest in organising. He derived his profit mainly from the sale of the product. Moment 3 (the product market) was therefore the dominant moment, or rather it gave the employer the leverage to define and structure the preceding Moments 1 and 2. The configuration grew out of the conceptions of labour disseminated by the British economy throughout the eighteenth and nineteenth centuries, but these conceptions also reflected those long shared by craftsmen and by entrepreneurs who tended to be merchants more than the direct organisers of production.

All these conceptions confused labour with the product of labour, in other words, they ignored Moment 2 (the implementation of work as a productive activity). Indeed, they considered the employer's purchase of labour from the workers (Moment 1) as the equivalent of the purchase of labour already incorporated in the product (Moment 3). Adam Smith was the first to make this "mistake", or rather to have founded this convention. His error can be forgiven, because the industrial establishments he observed in his time were made up of groups of craftsmen working with their assistants, who were paid piecework rates (cf. the paradigmatic example of pin manufacturing). What the company director purchased was in fact the product (e.g. pin heads) and not truly the right to dispose of labour-power at his guise. But fundamentally this convention of interpretation of the employment relation testifies to the major theoretical invention of the British economy: the market. British economists analysed all economic phenomena through the prism of market theory. Smith's contemporaries (such as James Steuart) and those who came after him (such as David Ricardo, James Mill and John Stuart Mill) did likewise. They identified labour as being directly exchanged as materialised labour. As the contemporary German commentator Theodor Bernhardt<sup>18</sup> in 1847 noted with surprise, Smith analysed the production process as a process of exchange between two owners negotiating the purchase of labour, but the labour was already incorporated in a

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<sup>18</sup> Quoted by Biernacki (1995, 252).

product. There was another, deeper source of confusion, however. Under the influence of the Poor Laws and the constant debates over their reform, waged labour was identified as poor relief. Waged labour was unworthy of a free man. Only someone who remunerated himself by bringing the products of his labour to market could be considered a free man.

The comparison of piece-rate schedules in the textile industry in Great Britain and Germany during the second half of the nineteenth century made by Richard Biernacki (1995) tells us a great deal about the British conception of labour. The textile industry was an important sector of the both economies (and of their competition in international markets). Piecework rates were a key instrument enabling employers to achieve a good compromise between productivity (reducing unit cost) and product quality. The weaver's task (then and now) consisted in ensuring that the loom's shuttles moved the weft threads horizontally back and forth across the vertical threads of the warp. As the shuttles laid their thread, a beam rotated to let out more warp. For a given warp (the "weave"), the speed of the beam's rotation largely determined the length of the cloth manufactured per hour. If the weave of the fabric was to be loose, the weaver could produce more lengths of cloth per hour, but he would have to change the warp in the loom more often, which was time-consuming. If the weave of the fabric was dense, the loom had to operate more slowly. The weaver produced fewer lengths of cloth but he did not have to change the warp nearly as often and thus would lose less time.

Great Britain and Germany found different solutions to the same technical problem of how to gauge output. Biernacki studied both systems in depth, researching the extremely rich archives produced in textile industry circles (Biernacki 1995, 43-57). The schemas used to calculate piece-rates in both countries were two-dimensional, but the dimensions they used were different. British employers and workers agreed on a system of remuneration linking the length of output to the density of the fabric (i.e. the number of weft threads inserted per inch). For a standard length of warp, the more weft threads were woven into each inch, the higher the pay. This made it possible to offset the negative effect of slower loom motion required to produce denser cloth. In contrast, German employers and workers agreed on a system centred on the number of *Schüsse* (literally "shots", the back-and-forth movement of the shuttles in a given time). This system linked the payment calculated per thousands of *Schüsse* with the number of shots required to produce one centimetre of cloth. Here again, the idea was the same, but the principle used to calculate was different. Weavers who produced loose-woven fabric earned more per thousand shots than weavers who produced dense fabric. They thus earned more per actual hour of work, which offset the time lost in very frequent warp changes on the loom.

What is of interest to us in this example is the fact that, once again, the conventions used to evaluate labour were specific to each country. In Germany, the

measurement of labour performance and wage calculation were concentrated in Moment 2 (production); the criterion was strictly technical and referred to the direct characteristics of the labour activity in the workshop. In Great Britain, the measurement of performance and the calculation of wages focused on the finished product, ready for market (Moment 3). Despite the changes in techniques and markets, and the familiarity of Britons and Germans with each other's practices, they each kept to their own system and considered it better than the other's.

Willibald Steinmeier has criticised Biernacki for unduly generalising about the whole of Great Britain from observations regarding a single industry (Steinmeier 1999, 500-528).<sup>19</sup> Steinmeier is right from the standpoint of labour practices. It can in fact be shown that a plurality of labour conventions existed within the economic fabric in Great Britain as elsewhere, depending on the industry and locality. But with regard to the configuration of meaning given to labour, research on common law converges with Biernacki's conclusions. Here we reinterpret the work done by Simon Deakin and Franck Wilkinson (2005) on the history of British labour law.

In the interpretation of the contract of service given by common law judges in their decisions, workers were subject to two contradictory injunctions: freedom of action versus disciplinary control.

On the one hand, they were held responsible for the fabrication of the product and its delivery by the date and according to the specifications provided for in the contract. In other terms, they were in charge of the realisation of Moment 2 (production). Fulfilling this responsibility should imply freedom of action, precisely the freedom of the artisan, the master and the craftsman, and that was how the workers perceived things. In fact, in large industries, trade unions were to continue fighting to maintain customary labour rules that were reformulated in a different context to extend the rules of the trade. Using those rules, the trade union intended to control hiring (closed shop), maintain the traditional occupational hierarchy (job differentiation, demarcation) against any attempt to dilute it (hiring unskilled workers) and set wage rates. This control was active throughout the period and rather successful: after each of the World Wars, the government rewarded worker participation in the war effort, which had led to suspending the rules, by passing a law to reinstate them.

But on the other hand, the value given to this freedom was denied and replaced by strict disciplinary control based on legal arrangements outside the enterprise (carrying penalties of fines and/or prison sentences). This control resulted in focusing court decisions on Moment 3 of the employment relation (delivery of the product made). The payment of wages could be deferred until the sale of the product, which would testify to its compliance with market

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<sup>19</sup> Document communicated by Willibald Steinmeier at the Ecole des Hautes Etudes en Sciences Sociales, Seminar "*Les mots de l'histoire*" held on 14 March 2008.

specifications. While the employer was dispensed from giving prior notice before dismissing a worker (and from the obligation to pay any wages due), the employee had to comply with a period of notice (often as long as several weeks) before he could leave. For a long time, voluntary departure meant (and this was confirmed by jurisprudence) the employee would not be paid wages corresponding to the period of notice.<sup>20</sup> This control implied – and herein lies the contradiction and the source of the injustice felt by the workers – a hierarchical concept with a strong moral dimension. The dependent worker was tied, in the strong sense, to the employer; the concept of service had the connotation of “being at the service of”, being a servant attached to his master and subject to a duty of obedience.

It is difficult to know how prevalent the remaining traces of the contract of service actually were in the interwar period, but the tension was certainly strong. Craftsmen shared the conception of nineteenth century economists and social reformers that only an independent person who had control over his labour and the product of that labour was a free and worthy man, with a right to take part in public life.

### 3.2 Germany and Freedom of Association

Beyond the vicissitudes of the First World War, Germany’s defeat and social and political conflicts, the advent of the Weimar Republic and its actions were in keeping with the imperial tradition. However, they shifted its industrial emphasis towards labour. The Constitution of the Weimar Republic, promulgated on 11 August, 1919, devoted several articles to labour (in Second Part, Section 5. Economic Life). Article 157 stipulates that “labour is under the special protection of the Reich”.<sup>21</sup> Article 159 is concerned with freedom of association<sup>22</sup>, Article 161 with social insurance and Article 163 with the duty to work and to aid unemployed workers. Article 165 stipulates: “Workers and employees are called upon to participate, on an equal legal footing in community with the employers, in the regulation of wages and working conditions as well as in the economic development of productive forces”.<sup>23</sup> These ends justi-

<sup>20</sup> To the point that the Truck Acts (1831, 1887) were passed to require regular payment of wages, without all sorts of arbitrary deductions. But they were limited to dependent workers, which excluded subcontractors, outworkers and servants (Deakin and Wilkinson 2005, 73).

<sup>21</sup> Article 157, § 1: “Die Arbeitskraft steht unter besonderem Schutz des Reichs.”

<sup>22</sup> Article 159 (extract): “Die Vereinigungsfreiheit zur Wahrung und Förderung der Arbeits- und Wirtschaftsbedingungen ist für jedermann und für alle Berufe gewährleistet.”

<sup>23</sup> Article 165 (1) “Die Arbeiter und Angestellten sind dazu berufen gleichberechtigt in Gemeinschaft mit den Unternehmern an der Regelung der Lohn- und Arbeitsbedingungen sowie an der gesamten wirtschaftlichen Entwicklung der produktiven Kräfte mitzuwirken. Die beiderseitigen Organisationen und ihre Vereinbarungen werden anerkannt.” The English version translates Gemeinschaft by cooperation and speaks only of equal footing. Article

fied the creation of collective organisations and recognition of their agreements by the state. Labour institutions bore the stamp of an objective of social and political transformation and henceforth labour became the core issue of political controversies and struggles.

The conventions that gave meaning to the employment relation in Germany focused on Moment 2 (the production process and its organisation). Even further, Moment 2 was constitutionalised and German society organised around it. Moments 1 and 3 were subordinated to it: Moment 1 (hiring, setting wages) because it was linked to production needs as a result of collective bargaining, following the constitutional requirement of joint participation by trade unions and employers; Moment 3 due to the mode of national development itself, based on industrialisation and on its salient feature (the rise of quality products demanded and organised by the Empire, which was designed to make German identity the synonym of excellence throughout the world).

By assigning priority to the realisation of the product, the configuration of meaning of labour in Germany remained in line with the Hegelian tradition (cf. Part 1). The conceptualisation of Moment 2 was original, quite different from, if not opposed, to the British approach. It was based on the primacy of freedom of association over freedom of contract.

Through the hiring process, the worker put the free use of his labour-power (*Arbeitskraft*) at the disposal of the employer, who in turn was required to use this labour-power efficiently thanks to the quality of company organisation. The efficient use of labour-power enabled the employer to make a profit and the worker to earn his wages. This conception offered a solution to the dilemma created by labour conventions: their object. The relevant object structuring the employment relation became the exchange of one's labour-power for wages, an exchange pervaded moreover by a concern for efficiency. What is most remarkable is that it appears that Marx has built his theory of the exploitation of labour on this convention. According to Biernacki, however, Marx developed his theory while living in exile in Great Britain, without knowledge of the work of contemporary German economists. For indeed it can be found in numerous forms in the writings of those economists of all political stripes, as well as in press publications by trade unions and other sources in Germany. It was expressed in Article 165 of the Constitution cited above. The legitimacy of equal participation of workers and employers was based on a common good: economic performance in terms of both quantity and quality.

This convention in no way ruled out conflict or social struggles, but it shaped the way they were expressed. Most of the founders of the Weimar Republic, who came from or were close to the SPD and free trade unions, sub-

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165 (2) “*Die Arbeiter und Angestellten erhalten zur Wahrnehmung ihrer sozialen und wirtschaftlichen Interessen gesetzliche Vertretungen in Betriebsarbeiterräten sowie in nach Wirtschaftsgebieten gegliederten Bezirksarbeiterräten und in einem Reichsarbeitserrat.*”

scribed to Marx's theory of labour exploitation as absolute dependence (without any subsisting individual freedom) of the worker on capital. In their view, this was an objective reality, which could be countered in two ways: either by using labour law to moderate exploitation or through a gradual struggle to reach socialism. Kahn-Freund (1975) recalls that the concepts of labour and dependence developed by Hugo Sinzheimer, one of the jurists that instigated labour law under Weimar, combined the traditions of Marx and of Gierke. Sinzheimer borrowed from Gierke<sup>24</sup> the idea of unlimited subordination of the worker's will to the company, which viewed him as nothing but an object or an instrument. Outside the organism formed by the company to which he belonged, the worker was not a person from an economic point of view; inasmuch as his entire existence was determined by a totally alien authority, in whose life he played no part whatsoever, he had no civil rights in the economy as a whole. But Sinzheimer retained Marx's idea that labour is made of flesh and blood, that it is the expression of a living person. He therefore assigned to labour law (or "dependent" labour law as he described it) the role of "moderating the employer's decision-making authority by introducing legal elements".<sup>25</sup> And it was up to trade union organisations to ensure the moderation of the employer's authority in practice.

German trade union leaders concluded they could use newly implemented economic co-participation as the starting point for a peaceful path to socialism that would put the undeniable productive efficiency of capitalism at the service of the working class. Unions therefore played this card, thinking they would be protected by parliamentary and economic democracy and their constitutionally recognised role within it. Their main if not sole levers for action in this context lay in support from the law and active participation in all the bodies in charge of labour regulation and administration and social protection.

The individual worker was powerless in the conception of labour as absolute dependence. Freedom of association was his only chance for salvation. As Heinz Potthoff said in 1925,

What is new in [German] labour law after the First World War is that its foundation has shifted from individual rights to collective rights. The labour contract as an individual agreement on working conditions has been relegated even further to secondary status. Its content is determined from outside not only by law, but above all by collective norms (the collective agreement, *Tarifvertrag*, and the company agreement or *Betriebsvereinbarung*). Freedom of association now stands in place of freedom of contract.

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<sup>24</sup> Otto von Gierke (J.-D. Lewis 1935).

<sup>25</sup> Kahn-Freund (1975), edited by Lewis and Clark (1981, 79).

Priority was given to the norms resulting from collective bargaining.<sup>26</sup> Labour rules (particularly wages and the wage system, normal working hours and overtime, apprenticeship and often workshop rules) were produced and enacted through collective agreements. By virtue of Article 159 of the Constitution, these rules acquired the force of law for signatories of the agreement, and they were expected to use their influence among their members to ensure they were properly implemented.

The conceptualisation of labour under Weimar differed from the British and French conceptions in that co-participation prevailed upon contractual freedom.<sup>27</sup> In the French conception of subordination, freedom of contract created social and economic rights that were guaranteed by the state. What the worker lost in agreeing to be directed by an employer (and temporarily alienating or rather setting aside the exercise of his free will in this process) was recovered in the attribution of collective rights. Furthermore, and just as importantly, free will remained a possibility that could always be exercised during labour and never denied. The employer therefore had no fundamental justification for treating the worker like a thing, e.g. pushing technical rationalisation (particularly scientific organisation and standardisation) to the point where the person was no longer taken into account. In Great Britain, as we have seen, the justification for trade unions was to defend, tooth and nail, customary labour rules. The possibility of cooperating with the employer was ruled out and the attempts to create an institutionalised, centralised model of social relationships (under the influence of a few major industrialists) failed miserably during the interwar period. Incidentally, most employers were convinced from the start that such attempts were futile. The resulting configuration of action impeded or diverted any collective effort to modernise the economy and in particular to rationalise labour. In Germany, on the contrary, everything – including wage and social improvements – was to be achieved through better organisation. The 1920s and 1930s in Germany were marked by a systematic effort, led by numerous, powerful professional associations to promote and implement standardisation and rationalisation.

Association was thus the core concept and principle of collective construction in labour conventions under Weimar. It also appears to have fuelled tensions within the federal organisation into *Länder* inherited from the Empire. In Germany, a person's identity was tied to his identity at work which was inher-

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<sup>26</sup> The fact that the collective agreement had pre-eminence over the individual contract was pointed out by another Weimar jurist, Walter Kaskel, 1932. (Lewis and Clark 1981, p. 32), an interpretation shared by Sinzheimer.

<sup>27</sup> Freedom of contract appears Article 152 (1) in connection with economic transactions. It is framed (Article 151 (1)) by the idea that "The economy has to be organized based on the principles of justice, with the goal of achieving life in dignity for everyone." In German: "*Die Ordnung des Wirtschaftslebens muss den Grundsätzen der Gerechtigkeit mit dem Ziele der Gewährleistung eines menschenwürdigen Daseins für alle entsprechen.*"



ently communitarian; it was a form of belonging – we cannot (yet) speak of citizenship. Identity at work in the Weimar Republic was a focal point of competition between employers and trade unions. This competition played on the ambiguity between labour community (*Werkgemeinschaft*) and works community (*Werksgemeinschaft*). As a result of this competition, the worker was subject to a twofold allegiance: to the group (the organisation that negotiated the agreement), on the one hand, and to the employer (who controlled the organisation of work) on the other. The worker could expect support from both: solidarity in the first case, paternalism in the second. This double allegiance had important implications for the way the employment relation proceeded. It carried with it expectations in terms of responsibility and efficiency that weighed upon the worker. Consequently, the worker's salvation – obtaining good wages and good working conditions – lay in surrendering to the work organisation, and even more in actively participating in collective performance.

### 3.3. France and Freedom of Contract

To put it in a nutshell, we might say labour felt at home in the Republic. Despite real inequalities in their living and working conditions, French workers (artisans and craftsmen) felt neither dominated nor exploited from an ontological point of view. Though their movements were repressed (sometimes frightfully, e.g. after the Paris Commune in 1871), over the long term, workers represented a turbulent social force carrying considerable political weight and they were well aware of it. Manual labour was the moral foundation of the Republic and they were its spokesmen (Sewell 1986; Sonenscher 1989; Cottareau 1986). With the rise of large industrial firms at the turn of the twentieth century, workers were faced with a world that was more or less impervious to those values. Nevertheless, the understandings of the realities of labour, by those who experienced them as well as by economists, jurists and trade union leaders, remained, as it were, midway between the British and German conceptions. For workers the finality of labour was not perceived to be production for a market (in which case labour would merely have a market value incorporated in the product) or support for increased output through organisation. Instead, the dominant conception was a combination of attachment to concrete labour and the social finality of labour (considered as an act performed neither for the market nor for the boss but above all for the community), a combination that included the civic dimension of labour.

Thus, the conceptions of labour in nineteenth and early twentieth century French political economy were not as fully developed or as clear-cut as those in Britain and Germany. What stands out would seem to be a conception of the labour transaction as the offer of a capacity to provide services. “When I hire a worker, what he sells me is not his stock of skills, but only the services that his capacity can provide in one day of work”, wrote Jean-Baptiste Say, who was

himself an entrepreneur in the textile industry. While Say and his followers, unlike their British counterparts, differentiated between labour sold as a service and the product of that labour, they did not go as far as German economists, who reduced labour to a force whose output could be maximised through organisation. They used the terms “labour-power” and “labour services” synonymously, by the way. The ambiguity of these concepts allowed them to maintain this intermediate position and implicitly preserved the concrete dimension of labour. In this regard, it is important to make a clear distinction between the hiring-for-services contract peculiar to French law in this period and the British service contract, which had the connotation of master-servant relation. Similarly, we should not forget that nineteenth century French socialists failed to understand Marx’s work or his conception of capitalism as a mechanism for extracting a surplus value from labour. Of course they accepted the idea that employers purchased labour activity, but in their view, the exploitation of this activity occurred in the labour market, hence their hostility to illegal subcontracting of labour (*“marchandage”*), frequent in that period.

Biernacki provides striking testimony to French theoretical and practical troubles in his example of weavers and piecework wage schedules discussed earlier with regard to Great Britain and Germany (Biernacki 1995, 337-343). After mechanised production was introduced during the last quarter of the nineteenth century, French manufacturers used both the “German” type (payment by the number of times the shuttle shot across the warp in a given period of time) and the “British” type (payment by the length of cloth delivered). But the French payment systems, unlike the German and British systems, failed to produce a linear relationship between the amount of wages paid and the worker’s performance. This is a sign that the abstract concept of labour (i.e. reduced to time and quantity), already in use in Britain and Germany, had not yet penetrated French industrial practices. Moreover, French employers and workers viewed payment systems merely as references to be used in wage negotiations and not as an objective standard to be adopted. The references could be adjusted however one wished; the point was to arrive at a common estimate of daily wages. As the Lille employers said in 1909: “the system is nothing, the wages are everything”.

In keeping with the Civil Code tradition, French labour law viewed the implementation of labour (Moment 2 of the employment relation) as a free agreement between the parties and therefore had no role to play in it. On the other hand, the Code gradually legislated with regard to Moment 1 (entering into the employment relation) and Moment 3 (from the angle of a breach or possible suspension of that relation), to ensure some degree of equality between the rights of the parties. It tried to offset the inequality of the respective positions of the worker and the employer, in particular by structuring the employment relation around the principle of subordination. The aim – and this is an essential point of the comparison – was not to confirm the fact that workers

were subordinate to the authority of their company head and duty-bound to obey him, but rather to derive rights from the acknowledgement of their subordination. The employer's responsibility was clearly limited to the scope of the company. It was gradually framed by the rules of what we might nowadays refer to as the "social public order", which at the time were called "législation ouvrière", notably in the area of working conditions (working hours, accidents, female and child labour). The French parliament and the state intervened directly in these areas through public debate and lawmaking. Worker legislation did not take a position as such with regard to a normative conception of Moment 2 (production) of the employment relation. Instead, it required that all labour implementation, regardless of the form it took, had to comply with minimal conditions.

The development of labour disputes throughout the period revealed three French specificities: it posited a conflict between collective autonomy (from which the collective agreement emanated) and workshop rules; labour conventions were inserted into legal texts drafted by judges (which thereby gave them the role of evaluating, as well as publicising and legitimising labour conventions, especially the local judges); the legal concept of "group" was used to grasp the existence of a collective entity in a legal system that recognised only individual wills.<sup>28</sup>

The concept of "group" was an important invention. At the time, in French law, like British common law but unlike German law, groups were not conceived as substantial entities. They had no existence as such and therefore could not make decisions or sign agreements on their own behalf. In other words, to be legitimate and entitled to enter into a legally valid agreement, a group (a trade union or any group that signed an agreement) had to prove it had received the agreement of its members. This requirement led to the use of multiple techniques such as stipulating for others, mandating representatives or holding special group deliberations. For example, when the mandate technique was employed, the trade union or group had to receive a mandate from each member. These members were the only ones who were covered by the agreement and who were allowed a certain period of time to withdraw from it. It was not until 1936 that the Ministry of Labour introduced compulsory procedures to extend collective agreements to all workers and all firms.

The comparison with the German and British conceptions shows that the 1919 French law pertaining to collective labour agreements (neither a constitutionalised system nor a voluntary system) rewrote and transferred – this time to the national level – the compromise between political democracy and social democracy already<sup>29</sup> to some extent operative at the local level (e.g. in *fabri-*

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<sup>28</sup> The following discussion is based primarily on the research of Claude Didry (1992, 2001, 2002). The interpretation is mine.

<sup>29</sup> A compromise sometimes combined with a touch of patronage.

*ques collectives*, to use the term employed, which were local networks centred around a particular type of product and composed of workers with different statuses ranging from home workers to independent workers, artisans and small firms). This new compromise germinating at the time was to leave a mark on social practice in France that is still perceptible today. On the one hand, in order to sign an agreement, organisations (particularly trade unions) had to produce proof of their democratic legitimacy, in other words, demonstrate that they indeed represented the persons on whose behalf they claimed to be signing. In return, through a democratic requirement out of any contest, the law recognised a legitimate space of autonomous collective action. Indeed, the selected notion of “group” made other types of agreements legally binding, particularly those signed by groups following strike reconciliation deals. In other words, the strike organisers or workers’ assembly that negotiated an agreement henceforth possessed democratic legitimacy, for the movement that gave rise to them was considered proof that the temporary group had the support of the workers. Thus the authority to seek a collective agreement was not the exclusive privilege of trade unions, as in Germany or Great Britain. It was also a prerogative of the collective movement that developed freely and autonomously through a strike. Hence what gave a collective agreement in France its force and legitimacy was not the power of the organisation (the trade union) that signed it, but the power of the social movement that led to the agreement.<sup>30</sup> These political conventions (collective autonomy and its legitimacy in the democratic order) were to prove important resources for the social and political movement during the crisis in the 1930s and the advent of the Popular Front in France.

## Conclusion

The meaning of labour and its configuration of conventions and institutions display strong national features. To be able to form a solid conjecture, it would be necessary to study how these configurations of meaning have been readjusted and perhaps substantially changed since the pre-war period and to what extent they have converged under the influence of the creation of the European Community. Nevertheless, the results provide sufficient grounds for questioning the nature of the European Union. According to Milward (1992), the founding nations of post-war Europe conceived it as an extension of themselves (especially as a market wide enough to lead to growth of their productive apparatus), rather than as a new object. Given the singularity of national configurations of meaning, what kind of political agreement underlay this type of con-

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<sup>30</sup> As a result, even today, the rate of trade union membership in France does not tell us much about the potential for employees’ mobilisation.

struction? Would it have generated over time Europe-wide conventions capable of becoming the foundation for real expectations and mutual understanding? Or did the founding countries merely play a rational game of pretending to agree, and end up convinced – at least at some level – by the gradual construction of European legislation and policies that there actually was an agreement? If that was the case, the last three years have been a rude awakening (Supiot 2011).

In the economics of convention, the researcher tries to see through the actors' eyes and experience action along with them in order to grasp the conventions. This approach is particularly relevant for history. Let us take just one example. What sense does it make to construct long, quantitative series, which implicitly claims that the statistical conventions used for defining and measuring are a-historical? The data that is produced is not worthless, but the external (and contemporary) model of analysis that supports data must be confronted with how actors understood the same phenomenon at the time. In an international comparison, reducing qualitative singularities to quantitative differences leads to "kill" any possibility of access to the national specificities of meaning and to their very dynamics.

The symmetrical risk is to pay exclusive attention to actors' justifications and disputes. One runs the risk of missing a whole side of the historical process, the one that actors forget and in a sense have to take for granted in order to act; namely, the significations incorporated in the surrounding social objects which populate the situation of action and coordination and direct (or at least frame) the actions and understandings of the situation. What hermeneutics can contribute to the economics of convention and specifically to convention-based history would be to reintroduce those objects into the analysis, along with and in relation to the actors' justifications, but not as part of an exterior, determining structure. Accumulations and rearrangements of conventions result in configurations of meaning. By the very fact of being subject to rearrangement and interpretation, the environment of social objects, on which configurations of meaning rely, frames the coordination as well as is taking part in and resulting from the historical dynamic.

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